

# Minutes of a Regular Meeting

Approved 2/24/05

## Town of Los Altos Hills PLANNING COMMISSION

Thursday, January 27, 2005, 7:00 p.m.

Bullis School Multi-Purpose Room, 25890 Fremont Road

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cc: Cassettes (3) #1-05

### 1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The Planning Commission regular meeting was called to order at 7:00 p.m. in the Bullis School Multi-Purpose Room.

Present: Chairman Kerns, Commissioners Collins, Carey, Cottrell & Clow

Chairman Kerns welcomed the newest Planning Commissioner, Bart Carey.

Staff: Carl Cahill, Planning Director; Dave Ross, Acting City Engineer; Debbie Pedro, Senior Planner; Leslie Hopper, Project Planner; Brian Froelich, Assistant Planner; Lani Smith, Planning Secretary

### 2. PRESENTATIONS FROM THE FLOOR

Les Earnest, Dianne Drive, referred to the memo dated January 24, 2005 (from Les, Nancy Ginzton, Carol Gottlieb, Dot Schreiner and Bob Stutz) indicating, as an apparent result of attempting to meet a tight schedule, certain parts of the current draft plan do not conform to the Pathway Element of the General Plan. They recommend that major inconsistencies be resolved before additional public hearings are undertaken or at the February 10<sup>th</sup> Planning Commission meeting..

Nancy Couperus, Page Mill Road, stated a forum sponsored by the League of Women Voters (Los Altos-Mountain View area) will be held on Sunday, February 6, from 3 to 5 p.m. at the Congregation Beth Am regarding Conservation Easements, Land Preservation Tools for Local Communities. She extended an invitation to all.

### 3. PUBLIC HEARINGS

- 3.1 LANDS OF LOS ALTOS HILLS (WESTWIND BARN), 27210 Altamont Road (CUP #39-02); A review and amendment to the Conditional Use Permit (staff-Brian Froelich).

Commissioner Clow stepped down from the hearing due to the proximity of his residence to the project site.

Staff introduced this item with a brief overview of the staff report. He noted that currently the area in question is showing some signs of improvement with sparse, low growing vegetation.

Mr. Alexander has thereby requested the Planning Commission rescind condition #2 and to change condition #6 to allow the number of horses to be kept or maintained at this facility not to exceed 54.

#### OPENED PUBLIC HEARING

Dan Alexander, Elena Road, President, Westwind Community Barn, had nothing further to add to the report.

#### CLOSED PUBLIC HEARING

Brief discussion ensued.

**MOTION SECONDED AND PASSED:** Motion by Commissioner Cottrell and seconded by Commissioner Collins to forward a recommendation to the City Council that the Conditional Use Permit be approved with the revised Conditions of Approval, as presented in the staff report, Lands of Los Altos Hills (Westwind Barn, 27210 Altamont Road.

AYES: Chairman Kerns, Commissioners Carey, Collins & Cottrell

NOES: None

ABSTAIN: Commissioner Clow (stepped down)

This item will appear on a City Council agenda.

- 3.2 LANDS OF ALON, 27673 Lupine Road (247-03-ZP-SD-GD); A request for a Site Development Permit for a 7,348 square foot new residence (maximum vertical height 27 feet) (continued from July 22, 2004) (staff-Leslie Hopper).

Commissioner Cottrell stepped down from the hearing due to the proximity of his residence to the project site.

Staff reviewed the staff report indicating this is a complex project that was first reviewed by the Planning Commission on July 22, 2004. At that time a number of neighbors voiced concerns. The applicant has provided a model of the project for review although it depicts the original design which has been changed due to direction given at the last meeting. At the July 22 meeting, the Planning Commission made several recommendations noting that the house did not blend in with the natural surroundings. They requested that the house be lowered as much as 10 feet, if possible, and also suggested that the second story be reduced in size and that landscaping be added to reduce the visual impact of the house. The applicants, in revising the plans, responded by lowering the house by 3 feet in the middle portion and 5 feet on the west side and 5 feet at the garage. They also adjusted the second story by pushing back the master bedroom (7 ½ feet) which reduces the visual impact somewhat but the actual size remains the same. The ground level first story was actually increased by 188 square feet. Other changes to the plans that were not in response to the Planning Commission recommendations included the configured circular driveway which involves grading that does not comply with Town regulations. Staff provided a display of the area to demonstrate the driveway and retaining walls indicating a 14

foot cut required to create this driveway. If the cut is measured from natural grade, the cut is even deeper, approximately 19 feet. This cut does not comply with the Town regulations which limit grading cuts to 4 feet. The circular driveway, which is not needed for access to the garage and parking area, will require up to 14 feet of cut and construction of retaining walls up to 14 feet in height, far exceeding the Town's maximum of 4 feet of cut and maximum wall height of 4 feet. Also, the driveway and retaining walls are located in the setback, and the driveway pushes the project over the MDA because it counts 100% as development area regardless of the proposed surface. The proposed driveway is not necessary as they have an existing driveway to the residence. There is also an issue with the pool which is to be located in the front yard requiring up to 13 ½ feet of fill compared to the limit of 3 feet. Consequently, staff finds it hard to support this application. The proposed revisions indicate the house was only lowered 5 feet, at the most, rather than the requested 10 feet and the revised plans also raise additional issues that were not a part of the original plans. Now there are grading issues and a setback encroachment and, due to the circular driveway, they have exceeded the MDA.

Another issue was the architectural style (contemporary) which has attracted much criticism. Under the code, the Planning Commission is not authorized to consider architectural style when making a decision on projects. Because there are so many problems with the revised plans, staff is recommending denial because the residence is sited on a highly visible lot; it cannot be rendered unobtrusive under Sec. 10-2.702(b); the project does not comply with the Town's grading policy; and it is not consistent with setback requirements and/or maximum development area. As an alternative, the Planning Commission can offer the applicant the opportunity to request a continuance for redesign of the new residence and pool consistent with Sec. 10-2.702(b) of the Municipal Code ("Permit Streamlining Act").

Discussion ensued regarding review of the revised plans, notifying the applicants regarding the problems with the grading, pool and circular driveway indicating that they would not be approved as submitted. Staff also recommended further reduction in height on the house. There were no further revisions.

#### OPENED PUBLIC HEARING

Mr. Alon, applicant, was familiar with the house site, and reviewed the MDA/MFA prior to purchasing the property to make sure the numbers would provide for his family needs. They have spent almost one year on the design of the house without requesting any exceptions. The house met all the guidelines and requirements for a Fast Track hearing. However, three objections were raised by the neighbors; height of the proposed building; reflectivity of the roof and materials; and the bulk of the building. At the previous Planning Commission meeting, the Commission examined the information provided, noting that to reduce the base of the house would require grading exceptions. The motion was as follows: directing the staff to work with the applicant to come up with a revised design through a combination of lowering the base of the house (an average of 10 feet preferred) and perhaps reducing the size of the second floor and the use of berms to mitigate the façade and reduce the aspects of the house, returning to the Commission for review with a landscape screening plan. He touched on two issues: (1) lowering the house more than 5 feet would effect the design of the septic system; and (2) inability to relocate the driveway leading to their neighbors, forcing him to build another one.

With the restrictions facing them, he felt they followed the spirit of the motion to the fullest extent. They lowered the west side of the house by five feet; lowered the east side of the house by three feet; lowered the extreme left side of the house by five feet; and reduced the profile by two feet. They revised the design to accommodate the two foot difference in height between the two sides. They pushed the second floor 7.6 feet back creating a nesting effect, required and recommended by the City ordinance effectively creating an almost 9 foot appearance of reduction of the house. There has been a major revisions in every section of the house including the garage. The extensive landscape design will provide screening higher than any other neighbor around. The design took into account many measures addressing the reflectivity by the use of shading and color selection. The existing design included an eight foot and four foot cut on the west side and a 10 foot and four foot cut on the east side, totally about 14 feet. The new design will increase it about 5 feet which is exactly what they were requested to do (push it down by as much as 10e feet). The civil engineer has assured them of the safety and integrity of the design. The house does not violate setback issues and is not the biggest house on the street. The framework on the existing house resides on the same exact location of the current house with the exception of the additional grading. They believe that they met most of the requirements. They felt they have kept the neighbors informed at each step. They have the approval from the Fire Department as well as the Health Department for the septic system and leach field and all other requirements. The previous proposal blends with the existing house on the property. The new proposal further reduces the visibility. The house is lower than the current house on the property and overlaying the existing house. He noted a recent meeting with staff regarding the changes. They have met every request, even conflicting at times. They have answered the issues and objections raised. The solution generated the need for a small number of exceptions which they are asking the Planning Commission to approve. They are assuring the City that they are willing to be flexible, consider possible modifications to the pool as well as the shape of the driveway. If the Planning Commission would approve the plan and would like to see the house lowered less than five feet to minimize the effects of the grading, they would be willing to accept that also and move forward with their lives. He stated that there was not one single place in the house that was not lowered.

Commissioner Collins questioned lowering here and there and pushing back really adds up to the spirit of the motion.

Staff indicated they had a discussion earlier today with the applicant and told him that staff did not look at the reduction in height the same way he did. The actual structure has been lowered up to five feet; some sections 3 feet, other sections 5 feet. Pushing the master bedroom back 8 feet may have reduced the visual impact but did not reduce the height.

Further discussion ensued regarding the circular driveway, grading and encroachment. The applicant was trying to get cars to the front of the house (easy entrance for elderly parents). Commissioner Kerns asked if they could discuss the circular driveway as there are concerns regarding the retaining walls in that area as it is partially into the setback.

Mr. Alon stated that they are trying to get to the front door of the house to make an easy entrance from his elderly parents. Originally they developed a circular design then went to a hammerhead design then back to the circular design. They have indicated to the City that they would be

willing to go back to the hammerhead design however, they do need a flat entrance to the house. They will do their best to keep within the guidelines.

Mrs. Alon indicated a discussion with the Planning Director yesterday at the site discussing several issues. She provided a handout for the Planning Commissioners noting presently, that there is a 55 foot driving area in front of the house where they can drive up to the door. They want to keep the original design which allows them to drive to the front of the house. The other driveway is the access to the basement/garage which is not the main entry to the house. With the hammerhead design, they should be in compliance with grading.

Commissioner Carey had met the applicants and some neighbors at the site as well as reviewing the tapes from the previous Planning Commission meeting. The Planning Commissioners recommendation was to lower the second story asking what options were investigated.

Mr. Alon indicated that the second story is 9 feet in height and the first story is 10 ½ feet in height. They looked at pushing the house down which was not a good option from the neighbor's standpoint. The existing driveway cannot be used (neighbor's driveway) so the proposed driveway is within a few feet. Commissioner Carey was concerned with the placement of any driveway as it relates to the location of a few oak trees. Mr. Alon assured everyone that they will not be removing any of the trees in the location of the driveway.

Sandy Ayers, landscape architect, provided a display of the landscape screening design for the site. Their desire is for 100% screening of the site, proposing screening in excess of other properties in the area. They will use large specimen trees. He indicated that the neighbors have reviewed the plans. They will use 16" box trees for immediate impact. The Eucalyptus trees will remain. Screening on the back side is not shown as it would have to be determined on the site after the house is framed. He further discussed the circular driveway and grading to flatten out the area. It was noted that if the pool and yard area could be smaller, the house could go down the hill slightly to avoid encroaching into the septic area.

Discussion ensued. Mr. Alon noted there is not an opportunity to connect to sewer due to the expense. Commissioner Clow asked how they reduced the house when it is still 27 feet which was addressed by the project planner (shifted and lowered). Stan Field, project architect, addressed the question regarding the reduction of the house (dropped into the ground). Mrs. Alon also addressed the grading plan, trying to please the neighbors and the City. Commissioner Kerns stated if the pool could be lowered 5 to 6 feet, it would be more in compliance with the grading policy. Mrs. Alon expressed their flexibility. Commissioner Carey stated that at the previous Commission meeting there was a Environmental Design Committee member who stated this house would be visible from areas 50 miles away. Commissioner Collins complimented the landscape architect on his efforts to landscape the site.

Mrs. Alon stated that it was never their intention to ask for any exception or grading; they did it to accommodate the neighbors. They are tied between pleasing the City (not grading), pleasing the neighbors (grading), not grading more because of the septic. The real issue is the neighbors' reaction, not their compliance.

Commissioner Kerns stated that the applicants are willing to change the circular driveway in the back to a hammerhead to improve the area (no setback issue). There is an issue with the pool in the front area due to the amount of fill. He asked if they would be willing to lower the pool area by 5 to 6 feet to make it more in conformance with the grading policy.

Commissioner Clow, in defense of the applicant, noted at the previous meeting he suggested filling the area, making it high so that you could put hedges on top of that to provide screening of the house from the road and the fill area acts like a berm to provide natural screening of the house. He pleaded guilty for even making the suggestion.

Mrs. Alon stated again that they are very flexible. They have been trying to follow direction. If you tell them to lower to pool to get approval, they will lower the pool. If they suggest applying for the pool at a later date, they will. The point of the pool from a landscape point of view, is that it provided a terrace which provides more screening with the vegetation. It's very hard to please everyone. She provided photos of the houses in the area noting explaining their views. It was suggested letting the neighbors express their own views.

Bernard Falcon, Mir Mirou Drive, reviewed the design and the efforts made by the applicants to please everyone. He appreciates comments from the neighbors. He felt the house will blend in well, will not detract from the street, will enhance the value of the street and the homes of the neighbors. He supported with the project with the changes proposed which he felt was a nice compromise for everyone.

Pat Ley, Ortega Drive, Environmental Design Committee, had originally stated that this house will be seen from 50 miles away. The road is a cul-de-sac and the Alon house will be very visible from Page Mill Road.

Tim Hamilton, 27677 Lupine Road, referred to an e-mail dated May 11, 2004 sent to the Alons. It indicated he had met with their architect. They discussed the portion of the plans that involved using a portion of his driveway. But before proceeding with any agreement they needed more information and binding commits on these items: (1) Gate. They would like to insure that the gate they put in is in keeping with the feel of the driveway. Their concern was with the construction of a large ornamental gate. Chambers next door and the gate is simply (4 feet high), they are fine. (2) Location of the entrance with respect to the oak trees. Save the oak trees by making the entrance 10 feet north of the existing tree. This is not what the current plan suggests. (3) Legal fees. We will not pay legal fees associated with crafting an agreement that grants you rights and easements to his land. He was sure there were more than a few details to work out that may have impact on deed, title and value of his property. They will need to consult with an attorney to review any agreement. They were okay conceptually with allowing Alons access from his driveway but in granting such access he wants a say in the design of the entrance, they want to do it right and they do not want to pay for it.

Mr. Hamilton stated this was the last correspondence he had with Mr. Alon stating he was not going to trade rights for promises. There is a lack to commit contractually by Mr. Alon. His preference would be one driveway. He wants an evergreen commitment. He never said NO. He appreciates the reduction in height from his perspective but one thing that has not changed is the

size of the house. It is massive. If the house was dropped an additional 5 feet, he would be concerned for the neighbors with the amount of earth that will be going up and down that road for two years.

Stephanie Munoz, Robleda Road, cannot see the house. Her concern was everyone wanting to build a bigger and bigger house. How can you build a large house without it being conspicuous. She felt the Alon house was nice but somewhere else.

Mark Harrison, Page Mill Road, representing his father, Melvin Harrison 27744 Lupine Road. He thanked everyone who had been to the site. He stated he has been a resident of Los Altos Hills for 45 years. He appreciated the efforts made by the Alons. However, with the new suggestions made for screening, he will have to wait until he is 71 before the house will be screened. He provided photos taken from his father's front deck of the site. They have an issue with the size and bulk of the proposal which is difficult to screen. For their information, Sharon Atkins sold the property to the Alons. She had her house for sale for 1 ½ years. She told him that she had a possible buyer but the MDA was not up to the standard needed by the new buyer. She brought in several truck loads of dirt and filled in the drainage area. He felt this improved the MDA. He suggested having someone recalculate the MDA. When asked how he felt with having the house move down the hill, Mr. Harrison was not sure. He would need to see story poles. Every time he looks out of his house, he sees this house. He felt planting large trees adjacent to the house, not down close to the street, was important. He was willing and had the time to explore other possibilities with the applicants. He did not feel the 5 foot drop made a difference from his view.

Commissioner Kerns asked if he was willing to plant trees on his property.

Sandy Humphries, Environmental Design Committee, felt the best way to review landscaping is after framing. When proposing a landscape screening plan, they do not expect the house to disappear but mitigate it so it blends into the natural terrain. The leach field does not show any plantings at all. It is important to have erosion control on the property. If grass is planted, she suggested bunch grass which does not require much water. Smaller vegetation is better or ground cover would be good.

Farhad Haghighi, 27840 Via Feliz, provided photos of the area 2 ½ years ago noting tree removal from the property. This house is massive. He felt the applicants should be willing to work with the smaller home owners. He felt there was no way landscaping will help him. The height should be reduced 10 feet. Just trees alone are not enforceable even with a bond. The house should be smaller, lowered with screening.

Jonathan Lee, 27751 Lupine Road, has had extensive discussions with the applicants. He has a verbal agreement with the applicants to screen the house as best as they can. He will plant on his side of the property also. He will be looking down on a flat "office building" roof. The applicants suggested putting gravel on the roof to soften the look. He discussed lowering the house by 10 feet by digging deep. However, on his hill there will be the equivalent of a 19 foot retaining wall. He was concerned regarding the integrity of the hill as he already has movement. There are rules and regulations for the good of all, requesting the Alons to honor them (grading,

height of retaining walls, setback, etc.). He does not want a massive retaining wall that he will have to deal with.

Jean Mordo, Councilmember, former Commissioner, voiced concern regarding how the hearing was progressing. He hears the desire to make a compromise but in his opinion the role of the Planning Commission is not to make a compromise but to apply the laws and regulations. It is nice to work together but what if they all agree to something that is against the regulations. What would you do? He felt the staff report was great stating they should apply the rules. He felt bad for the applicants and felt the process has been terrible to them as we have not stood by our rules. We have given them the impression, perhaps early on and still giving them the impression tonight, that if you go around and talk to the neighbors you will be able to work your way and find a compromise. This is why they have insisted on continuing to build this house on that lot. He felt it was a beautiful house but this is not the right place. We have specific rules protecting the hillside, ridgelines and highly visible lots. Because we have not been clear with them, they have been insistent and lost 1 ½ years and probably a lot of money trying to force this project on the wrong lot. Tonight we are continuing the same process and not doing them a favor.

John Dukes, 27783 Lupine Road, addressed this massive house. He felt it was wrong to try to fit the original design onto the site. A significant re-design is needed.

Jitze Couperus, Page Mill Road, analyzed the project regarding the size, siting, etc. but what has not been said is that maybe the house does not fit even though it fits within the guidelines of so many square feet. There are circumstances wherefore a given lot with a given designed house just cannot be made to fit without severe compromises one way or problems the other way.

Mrs. Alon discussed the retaining walls noting they do not want to risk the slope. They are using professional and expert civil engineers to make sure they accomplish safety.

#### CLOSED PUBLIC HEARING

Commissioner Clow felt Jean Mordo made good point. Sometimes you cannot build to the maximum development area. This is a highly visible site. The neighbors are very concerned. The efforts regarding landscaping have been heroic but it looks like another 15-20 years before you would have a mitigation that would really work. The applicants have tried very hard but this is not a situation where he sees it meeting the ordinances. Staff has recommended denial which is extremely unusual. He also recommended denial of this application.

Commissioner Carey felt if they could figure out how to drop the house by 10 feet and reduce the second story as recommended by the Commission last July, they would have a much easier time with an agreement. The house does not quite fit the lot. He was sympathetic to the fact that the Alons, when buying the property, understood there would be a certain amount of floor and development area available to build on this lot. Being a highly visible lot, there are restrictions on what they can build. In order to make this work in everyone's best interest, a significant re-design is necessary that will probably reduce the size of the house, at least the second story and will in some way continue to keep the house at a lower level than what the original plan



indicated. He felt there were ways to lower it more than indicated. Whether 10 feet is achievable was not known but he believed that more than 5 feet is achievable.

Commissioner Collins agreed that the applicants have made a terrific effort to compromise with the neighbors. However, all the adjustments and modifications they have made does not reduce the obtrusiveness of the house. It is a beautiful house but remains obtrusive. She would agree with the staff recommendation for denial. As mentioned in July, she thought it was a beautiful house but it should be a single story house with a basement which should fit the lot beautifully.

Chairman Kerns stated that this was a difficult project. As stated at the last hearing, reducing the house by 10 feet into the dirt is difficult. He was personally okay with the house as designed. He did not feel the house itself was the issue as it can be mitigated with landscaping. However, he was concerned with the circular drive in the back although the applicants expressed willingness to modify it to meet Town codes. He was also concerned with the pool area in the front regarding fill. He would recommend approval of the house as it is with the changes to the circular drive and the pool area. They do need to give the applicants direction in terms of a re-design.

Commissioner Collins stated if they were to give them specifics on re-designing, she would not want to send them out again with the neighborhood and ask them to work together on the design. A specific direction would be to request a single story house.

Commissioner Carey did not feel it was appropriate to restrict the residence to a one story (two story with some reduction of the second story).

Discussion ensued. Commissioner Clow felt with a creative design and a smaller footprint they could come up with something that might fit the neighborhood. At the last meeting, they discussed reducing the height of the house. If the house is one story rather than two story it would be a lot fewer square feet.

The Planner Director noted that code indicates that single story structure may be required on highly visible hillside lots. They can focus on a few areas; height, size of the home and go downward.

**MOTION SECONDED AND PASSED:** Motion by Commissioner Clow and seconded by Commissioner Carey to deny the request for a Site Development Permit for a 7,348 square foot new residence and pool, Lands of Alon, 27673 Lupine Road, subject to the findings, Attachment 1 of the staff report.

AYES: Commissioners Collins, Carey & Clow  
NOES: Chairman Kerns  
ABSTAIN: Commissioner Cottrell (stepped down)

The decision is subject to a 23 day appeal period.

Brief break at 9:20 p.m.

- 3.3 LANDS OF ESHGHI & DOROODIAN, 13530 Fremont Road (168-04-ZP-SD-CDP-VAR); A request for a Site Development Permit and a Conditional Development Permit for a 4,541 square foot new residence (maximum height 27 feet) and pool, and a variance to allow the house to encroach up to 12 feet in the front and rear yard setbacks and up to 16 feet in the side yard setback, and to allow parking to encroach in the side and front yard setbacks (staff-Leslie Hopper).

Commissioner Carey stepped down from the hearing due to the proximity of his residence to the project site.

Staff introduced this item by detailing the staff report, in particular, the request for a Conditional Development Permit and variance to allow the house to encroach into the front, side and rear yard setbacks and side yard setbacks as well as the. With the assistance of power point presentation, she discussed the encroachments as well as the proposed new driveway coming off of Burke Road. This is a difficult site for several reasons: (1) located at the intersection of Fremont Road and Burke Road; (2) substandard lot; and (3) requirement of a dedication of a 10 foot strip along Fremont Road and Burke Road which further reduces the size of the lot making it very difficult to accommodate the allowable floor and development area numbers while staying behind the setback lines without encroachment. As a result, staff felt there were reasonable grounds to form a basis for granting a variance but at the same time realizing there possibility may be very real impacts. The site is highly visible and the story poles have created much attention. She further discussed the findings for the CDP as well as the findings for the variance request.

Commissioner Collins questioned the statement under Variance Findings #1, "The strict application of setback requirements would deprive the owners of privileges enjoyed by the previous owner and by other properties in the vicinity" which was answered by the Planning Director.

#### OPENED PUBLIC HEARING

Farro Essalat, project architect, felt staff had covered most of the points. He discussed the previous options at the start of the project and impacts on the adjacent neighbor, before settling on the proposed design. He felt the design fit into the neighborhood. While they were trying to accommodate the needs of the owners they were also very conscious of what the building would look like on the corner. They wanted a building that was not a bulking building but more picturesque and would blend in with other houses in the neighborhood. This is the path taken in the design of the project. One item brought up in a letter from a neighbor was creating a blind corner as far as traffic was concerned which he addressed. To improve the access, staff required a turnout pocket for northbound cars making a right turn into the driveway. Also, a traffic engineer was asked to review the plan and they believed that the operational characteristics of the driveway and its intersection with Burke Road would be satisfactory and justify the Town approving this aspect of the site plan. Letters of concern from neighbors was discussed.

Commissioner Clow was surprised that they had the impression they could have 10-15 foot setback variance on three sides of the property. This seems to be completely unprecedented.

Mr. Essalat stated it was not an impression. They worked with the former planner regarding the difficulties, trying to work with the site with the two 10 foot dedications required and the fact that it reduced the footprint. The former planner mentioned that part of the City ordinance would allow them to rebuild on the existing footprint of the house. He stated that staff has been looking at the project for a year. He further discussed the encroachments.

Ginger Summit, Lenox Way, neighbor for 40 years, was shocked with the house proposal. After listening to the previous application, one issue that was brought up was that the applicants have followed the letter of the law meaning he has built a house within the numbers available but the house was still too big for the property. The same argument can be applied onto this property. When the easements and restrictions applied by the City are taken out, it reduces it further so you have a very constraint lot. The owners and architect knew this and those were the conditions which they bought the lot. They chose to go ahead with numbers that she thought were excessive for this particular location. It is a great house and location. She was concerned with the "deadly" corner with five stop signs with cars that hardly stop. So you have a extraordinarily corner compounding it with the driveway that is coming out. There was some talk about a deceleration lane. As a pathway committee member she was very concerned as this produces a very dangerous situation. Also, extensive landscaping to screen the bulk of the house will create a blind corner.

Larry Russell, Lenox Way, neighbor for 28 years, provided some history of the area. He was happy that the property is being developed. However, the front setback has been moved from Fremont Road to Burke Road which he felt was a matter of convenience as the setback encroachment would have been more like 16 feet. Also, he felt they were designing the house around the pool and making the encroachment into the setbacks as a matter of convenience to have a pool. He noted the safety issue mentioned by Ginger. He felt if the house could be switched around so the entry was off Fremont Road it would be ideal. He did not have an issue with the house design if the landscaping and screening was right but he felt it would be very obtrusive if you do not put a row of Italian Cypress around two corners.

Bart Carey, Deerfield Road, neighbor, agreed with the comments regarding how nice the style of the house will be and the value of developing in this neighborhood. Larry and Ginger have gone over the major concerns. The letter signed by many of the neighbors outlines the concerns of the neighborhood. The neighborhood has a number of constrained lots therefore the neighbors in this area are more sympathetic of the difficulties of developing a constraint lot. There is opposition to the development, not because it is not a nice house but because of the degree of the setback variance request, in part because it appears a pool has been given preference to the floor area in terms of better maintaining the house within ordinances. He did agree that moving the driveway onto Burke Road is not a good idea and it would be better on Fremont Road (safety issue). As indicated in the letter from the neighbors, they are exhibiting some flexibility, not telling the applicants that they cannot have any but saying a 5 foot variance would be acceptable not the 16 feet being proposed.

Stephanie Munoz, Robleda Road, felt the house was too big on a substandard lot. They have the right to have a small house on a small lot. She further discussed the daylight plain. They are going from a small back yard to a smaller back yard. The house is too big. Applicants should not ask for further concessions from the Town and try to make their dreams fit within their lot.

Rich Beyer, Fremont Road, expressed two concerns: (1) the driveway on Burke Road is exceptionally dangerous; and (2) large house on the site requiring variances. Larry Russell asked him to stay on Burke Road. If the driveway is built on Fremont Road, there is a storm drain over which this driveway many have to be built which could pose its own set of issues.

Sandy Humphries, Fremont Road, thought you could not increase a non conformity(special privilege). The zoning is one acre minimum lots so not to have a huge dense population in town. Yes, this is a small lot and a flat lot. If approved, you will be allowing them to build more square footage on this small flat lot then would be allowed on a one acre lot.

Scott, Deerfield Road, located on one of the five corners of this intersection. He felt the house was beautiful. He just moved into the neighborhood six months ago. One of the things that attracted him to Los Altos Hills was the balance between nature and houses. If the variance is allowed from the setback, he will see a lot of this house. He suggested a smaller variance from the setback, allow more vegetation so the people coming down Deerfield Road would see less house. He felt the intersection was dangerous. If there would be a way to turn around inside and not backing out on the road would be a referable solution.

**Barbara** 13625 Hill Way, felt the house was beautiful. She noted that she shared a backyard fence with this project and sees the second story very clearly from her house asking to expedite the landscaping plans which would be very helpful to her.

Farro Essalat, project architect, discussed the design of the house, using the existing footprint and dropping the sides, making it more picturesque. The pool was not a consideration in designing the plan. What was a consideration was the impact on the other two neighbors.

Commissioner Kerns noted that there was concern with the driveway coming off of Burke Road. He asked if the whole house could be flipped so you would not have a driveway coming off Burke Road. It also might help them with trying to push the house back, away from the setbacks.

Mr. Essalt felt this would require a complete re-design of the house.

Kam Eshghi, applicant, stated when buying the property, their objective was to build a home that fits in nicely within the neighborhood, not something very modern. There are many nonconforming lots in the area. Barbara's home has the exact same lot shape with a two story home, nonconforming. He hoped there would be some consideration given to the fact that this is a substandard lot and obviously there is precedent for a variance for other homes also on substandard lots. Regarding visibility on the corner, they are actually improving the visibility. Regarding landscaping, they will make sure they will not add any obstruction. As they designed the home, their primary concern was their immediate neighbors. They prefer to have a small

back yard so the "L" shape house helps. Because it is a small lot, they want to be considerate of their two immediate neighbors. He felt the architect did a great job on the design to protect the neighbor's privacy. He further discussed the driveway onto Burke Road stating across the street there are four homes with driveways onto Burke Road. A traffic engineer has reviewed the design and they have added the pocket for deceleration. He discussed the size of the house noting they are meeting all the City requirements regarding the size of the house. They are asking for a variance, given the constraints and the fact that it is a substandard lot. Given that all the substandard neighbors are also nonconforming, this is a reasonable request. Also, the section over the footprint is not a two story portion.

#### CLOSED PUBLIC HEARING

Commissioner Collins stated that a request for a variance requires a hardship. A substandard lot is not necessarily a hardship. It is what it is. You build within the constraints of that lot. She did not feel that they have proven a hardship for the variances, at least to the extent of the request. The pool is a self created hardship. She felt it would be possible to have a house that fit within the constraints of the lot without the pool. She could not support the project.

Commissioner Cottrell had concerns with setting precedent. If they grant these variances on this size house on this lot, it would not be long before the rest of the lots would be requesting the same variances requesting to be treated the same as this applicant. This is not what they want to see in this neighborhood. It is true that they meet the MDA/MFA requirements but ever effort has been made to make this project as large as possible. He felt the house was too large for the lot. He did not see any reason to grant variances on three sides of the property. He felt they could either rotate the design, sacrifice some of the pool, or something to make it fit without this number of variances. He could not support the project.

Commissioner Clow referred to the comments from the neighbors emphasizing the reason for having setbacks is so when viewing a home from the road you have a rural appearance. There may only be a dozen homes in Los Altos Hills where the setback ordinance is as important as with this house. It is right on a major intersection. It would be desirable to have the setbacks as stated in the ordinances. This house will be right up against the road. They will see a conflict in the future where they will want to do landscape mitigation and if they put a bunch of trees there, they will be blocking sight lines going around the corner. There are reasons for setbacks. He was very concerned with setting a precedent. He felt the house needs to be smaller. He cannot support the variance findings.

Chairman Kerns liked the style of the house (good job with nesting the second story). However, he was also concerned with setting a precedent. He was also concerned with the driveway so close to that intersection after speaking to some of the neighbors. He would prefer keeping the driveway off of Fremont Road but keeping it close to the present location with a 40 foot setback on Fremont Road, not Burke Road. He would be supportive of a small variance encroachment into the setback (5 to 6 feet) which is similar to what some of the neighbors have recommended but not up to the 16 feet, as proposed. He would suggest a continuance for a re-design where they use a mirror image of the design, moving the driveway off of Fremont Road and try to

conform the house more to the setback lines so they would have no more than a 5 to 6 foot encroachment perhaps on two sides but not on the back side.

Commissioner Collins would not support any encroachment due to setting a precedent.

The applicants requested a continuance for a re-design.

**PASSED BY CONSENSUS:** The request by the applicants for a continuance for a re-design, Lands of Eshghi & Doroodian, 13530 Fremont Road. This item will be re-noticed for a future date.

- 3.4 LANDS OF LOS ALTOS HILLS (Cingular Wireless), 26379 Fremont Road (173-04-CUP-IS-ND); Site Development Permit and Conditional Use Permit to allow a wireless communications facility consisting of three (3) antennas mounted inside a 50' tall flagpole and associated ground equipment at Town Hall. (staff-Debbie Pedro).

The applicant provided a written request to be continued to a future date. It was noted that the applicant will hold a second informational community meeting with the neighbors prior to scheduling a public hearing.

- 3.5 LANDS OF BLACKMAN, 13815 Barton Court (220-04-ZP-SD-GD); A request for a Site Development Permit for a 5,459 square foot two story new residence with a 1,844 square foot basement (maximum height 24'10" feet), secondary dwelling unit, and pool (staff-Debbie Pedro).

Staff introduced this item by reviewing the staff report indicating a recommendation to approve the Site Development Permit for a new residence and secondary dwelling unit and deny the request for a grading exception for the swimming pool and yard area. She discussed the existing conditions stating in 1975, the site was graded with up to 5 feet fill and up to 7 feet of cut to create a building pad to accommodate the existing home. Staff pointed out that the applicant is correct stating that the cut currently purposing in the rear yard is approximately 5 ½ feet in most of the areas and 9 ½ feet close to where the retaining wall is located. However, it should be noted that the proposed cut is occurring in an area that has previously been excavated with 7 feet of cut. The accumulative grading on this site is approximately 12 ½ feet at its maximum. She referred to the Land Use Element of the General Plan, the Zoning Code and Grading Policy. To help clarify the amount of cut the applicant is proposing for his second yard, staff prepared a grading cross section that shows the natural pre-development condition (pre 1975), the current grade on the site including the cut and fill that created the building pad for the existing home, and the proposed grade which is 5 ½ feet in most of the area, up to 9 ½ feet in the area close to the retaining wall. She noted that the Planning Commission has the authority to grant an exception to the grading limits. In closing, she noted the receipt of a letter from an adjoining neighbor voicing support of the project.

**OPENED PUBLIC HEARING**

Brad Blackman applicant, summarized the design process, and addressed working with the neighbors (Zatparvar, Boals, Chung) and making modifications according to their concerns. They are not requesting any variances and are complying with all setbacks and height regulations. He needed to create a flat back yard due to a back injury (suffering from chronic pain). He further discussed the grading exception noting he did not know they would be evaluated based on a 1975 grade until this Monday. He further discussed the creation of the original site. Commissioner Carey asked, if they conform to the grading policy, where would the terracing in the back yard start which was answered by Mr. Blackman. The problem is trying to please the neighbors who want the house lowered. He is only asking for a couple of feet over the 4 foot policy.

Tom Barton, Barton Court, spoke in support of the project. He felt this was a lovely design and appreciated the time the applicant spent with the neighbors regarding the project. Mr. Blackman has proposed something very nice which includes what he plans to do in the back yard.

Lance Keigwia, Barton Court, stated he had an opportunity to comment on the project in the design phase voicing support of the project. He was pleased with the work Mr. Blackman has done and sharing the plans early on. He felt this project will be a welcomed addition to the neighbor.

#### CLOSED PUBLIC HEARING

Commissioner Clow supports the application including the lower level of the back yard.

Commissioner Carey agreed. He appreciated how the applicants approached the design with the neighbors. He felt the exception to the grading policy was appropriate.

Commissioners Cottrell and Collins concurred voicing support of the plan.

Chairman Kerns also agreed. He would have preferred to raise the house a bit and not having so much cut in the back. He has no problem with the application as is. It is a gorgeous home.

**MOTION SECONDED AND PASSED:** Motion by Commissioner Clow and seconded by Commissioner Cottrell to approved the Site Development Permit for a 5,459 square foot two story new residence with a basement, secondary dwelling unit, and pool, Lands of Blackman, 13815 Barton Court, with the recommended conditions of approval with the grading exception for the swimming pool and yard area.

AYES: Chairman Kerns, Commissioners Carey, Collins, Cottrell & Clow  
NOES: None

This approval is subject to a 23 day appeal period.

#### 4. OLD BUSINESS-none

5. NEW BUSINESS

5.1 Handout-Commissioner's 500 foot Radius Map for their future use at the Pathway meeting.

5.2 Review scheduling a second meeting in February (February 24, 2005).

PASSED BY CONSENSUS: To schedule a second meeting for February 24, 2005.

6. REPORT FROM THE CITY COUNCIL MEETING

6.1 Planning Commission Representative for December 16<sup>th</sup>—Commissioner Cottrell

6.2 Planning Commission Representative for January 6<sup>th</sup>—Open. Since the minutes from December 16 and January 6<sup>th</sup> meetings have already been distributed, no report was reviewed.

6.3 Planning Commission Representative for January 20<sup>th</sup>—Commissioner Kerns, reported on the following: discussion of revitalization of soccer playing fields at the Bullis-Purissima School site; Green Initiative Strategic Goals for the Town; and Consideration of Environmental Initiatives Committee.

6.4 Planning Commission Representative for February 3<sup>rd</sup>—Commissioner Collins

6.5 Planning Commission Representative for February 17<sup>th</sup>—Cancelled

7. APPROVAL OF MINUTES

7.1 Approval of December 9, 2004 minutes

PASSES BY CONSENSUS: To approve the December 9, 2004 minutes.

8. REPORT FROM FAST TRACK MEETING-DECEMBER 14, 2004

8.1 LANDS OF MALAVALLI & PACKARD , 27500 & 12840 La Vida Real, (145-04-LM); A request for a lot merger of two existing parcels into one 8.03-acre parcel. (Staff-Leslie Hopper). Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING- DECEMBER 21, 2004, JANUARY 11 & 25, 2005

9.1 LANDS OF LIU, 26200 Elena Road (42-01-ZP-SD-GD); A request for a permit modification to a previously approved Site Development Permit for a 5,133 square foot new residence (maximum height 25' 9") (staff-Debbie Pedro). Approved with conditions.

9.2 LANDS OF CHOU, 12951 Cortez Lane (235-04-ZP-SD); A request for a Site Development Permit for a landscape screening plan (staff-Debbie Pedro). Approved with conditions.



- 9.3 LANDS OF YU, 26625 Ascension Drive (164-04-ZP-SD); A request for a Site Development Permit for a landscape screening plan (staff-Brian Froelich).  
Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 11:30 p.m.

Respectfully submitted,

Lani Smith  
Planning Secretary